

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**August 22, 2005**

<b>IN RE:</b>	)	
	)	
<b>BELLSOUTH'S PETITION TO ESTABLISH</b>	)	<b>DOCKET NO.</b>
<b>GENERIC DOCKET TO CONSIDER</b>	)	<b>04-00381</b>
<b>AMENDMENTS TO INTERCONNECTION</b>	)	
<b>AGREEMENTS RESULTING FROM CHANGES</b>	)	
<b>OF LAW</b>	)	

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**ORDER GRANTING PETITION TO INTERVENE**

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This matter is before the Hearing Officer upon the *Petition to Intervene of Covad* ("Petition to Intervene") filed by DIECA Communications, Inc., d/b/a Covad Communications Company ("Covad") on August 2, 2005.

**Background**

On June 1, 2005, the Hearing Officer in the above-captioned docket issued an order adopting a procedural schedule. That schedule provides for a full hearing on the merits beginning on September 12, 2005. The order also specified that any person desiring to participate as a party in the Hearing of this matter shall file a petition to intervene with the Hearing Officer no later than July 1, 2005. In addition to the June 1 procedural order, the Hearing Officer issued a separate order on June 28, 2005, adopting a discovery schedule and procedure proposed by the parties.

### **Criteria for Permitting Intervention**

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

- (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
- (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and
- (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.<sup>1</sup>

### **Discussion**

Covad filed its Petition to Intervene on August 2, 2005. In its petition, Covad states that it has participated in this docket as a member of CompSouth, a party to this case since the origination of the docket. The petition states that the granting of its *Petition to Intervene* "will not in any way change the procedural schedule agreed upon by the parties and accepted by the hearing Officer." In its *Petition to Intervene*, Covad states that it may wish to present oral argument and/or sponsor a witness at the hearing on its own behalf.

The Hearing Officer finds the *Petition to Intervene* filed by Covad was not timely filed according to the procedural schedule. However, its legal rights, duties, privileges, immunities or other legal interests of the intervenor may be determined in this matter, as evidenced by its prior

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<sup>1</sup> Tenn Code Ann § 4-5-310(a) (1998)

participation in this docket as a member of CompSouth. No person or party has filed an objection to the *Petition to Intervene*. Upon applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) and Tenn. Comp. R. & Regs. 1220-1-2-.08, the Hearing Officer grants Covad's *Petition to Intervene* to the extent that Covad's participation does and will not modify the procedural schedule. Therefore, the Hearing Officer reserves the right to limit Covad's participation during the hearing in the event that the orderly and prompt conduct of the proceedings are impaired by its participation.

**IT IS THEREFORE ORDERED THAT:**

The *Petition to Intervene of Covad* filed by DIECA Communications, Inc., d/b/a Covad Communications Company is hereby granted without a determination at this time as to whether the "interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention." Covad may receive copies of any notices, orders or other documents filed herein.



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Deborah Taylor Tate, Director  
As Hearing Officer